

**PLANNING AND ZONING BOARD  
NOVEMBER 14, 2007**

**1. ROLL CALL**

The meeting was called to order at 7:03 p.m. Board members present were Chair Mike Bender, Vice-Chair John Stevens (arrived 7:05 p.m.), Philip Busey, Dan Pignato and Mimi Turin. Also present were Attorney Thomas Moss, Director of Housing and Community Development Shirley Taylor-Prakelt, Acting Development Services Director Marcie Nolan (arrived at 10:00 p.m.), Acting Deputy Planning and Zoning Manager David Abramson, Planner Lise Bazinet, Planning Aide Carlo Galluccio and Board Secretary Janet Gale recording the meeting.

**2. APPROVAL OF MINUTES:** October 24, 2007

Mr. Pignato made a motion, seconded by Mr. Busey, to approve the minutes of October 24, 2007. In a voice vote, with Vice-Chair Stevens being absent, all voted in favor. **(Motion carried 4-0)**

**3. PLAT**

3.1 P 12-3-05, Royal Davie, the 5500 block of Davie Road (R-3)

Barry Webber, representing the petitioner, was present. Chair Bender asked Mr. Webber if he had any objections if the Board addressed this item together with item 4.1. Mr. Webber indicated that he had no objections. Ms. Bazinet summarized the planning reports for both items.

Mr. Webber provided a brief presentation and concluded that the homes would be a nice addition to the neighborhood. Accompanying Mr. Webber were the project engineer, architect and landscape architect in order to answer any technical questions that the Board may want to ask.

Chair Bender asked if anyone wished to speak for or against these items. As no one spoke, the public hearing was closed.

Mr. Pignato advised that the property backed up to Caulder Farms where he lived and he believed it would be a very nice project to have located there.

Mr. Pignato made a motion, seconded by Vice-Chair Stevens, to approve item 3.1. In a roll call vote, the vote was as follows: Chair Bender – yes; Vice-Chair Stevens – yes; Mr. Busey – yes; Mr. Pignato – yes; Ms. Turin – yes. **(Motion carried 5-0)**

Vice-Chair Stevens made a motion, seconded by Mr. Pignato, to approve item 4.1. In a roll call vote, the vote was as follows: Chair Bender – yes; Vice-Chair Stevens – yes; Mr. Busey – yes; Mr. Pignato – yes; Ms. Turin – yes. **(Motion carried 5-0)**

**4. PUBLIC HEARING**

*Rezoning*

4.1 ZB 12-1-05, Royal Davie Investments, LLC, 5509 Davie Road (from Residential/Office and A-1 to R-3)

This item was approved earlier in the meeting.

4.2 ZB 10-1-07, Town of Davie/Various Owners, generally located at south of SW 36th Street between University Drive and SW 76th Avenue; land south of the C-11 Canal; and land south of the Oakes Road alignment, extending west from the Florida Turnpike to the rear lot lines fronting the west side of SW 54th Avenue (from various zoning districts to RAC-RTW, RAC-RTE, RAC-ED, RAC-TC, RAC-ND-2 and RAC-ND-4)

Later in the meeting, Ms. Nolan, summarized the planning report and advised that a PowerPoint presentation would be made by consultant Jeff Katims.

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Chair Bender indicated that he had a question regarding property rights. In order to have a clear understanding of that issue, he presented different scenarios. Each of the scenarios were based on having an M-4 zoning designation when a business was annexed into the Town under an annexation agreement and addressed the concern that the loss of a spectrum of uses correlated to a loss of property rights. Although Chair Bender understood there was no longer an M-4 zoning and that several of the business were classified as a legal non-conforming uses, he maintained that there was a big difference between what was allowed under the old County M-4 and the uses being offered within the RAC and that spoke to the issue of lost property rights.

Mr. Katims responded that since 1990, the M-4 zoning had not been in effect and that those businesses had been operating under the legal non-conforming use. For the past 17 years, they had not been permitted to change their uses. He believed that the Town was adding to their property rights as they could change their uses under the RAC or keep their current use, or both. The difference would be that any redevelopment would have to be in compliance with the development standards that were in the RAC.

Chair Bender asked for an approximation on the increase in density above what presently existed. Ms. Nolan responded that there would be about 18,000 new residential units over the next 50 years. She said that the phasing had not been determined and would be part of the Land Use Amendment process. Ms. Nolan “guesstimated” that it would be done with 3,000-to-5,000 units every three to five years to be sure that the infrastructure and schools caught up with the density increases.

Chair Bender asked about traffic studies. Ms. Nolan assured him that the master plan included an entire phase based on traffic and transit.

At the Board’s direction, Mr. Katims first addressed the recommended changes which pertained to infrastructure, affordable housing, and flight path concerns. Regarding regulations, he spoke of the property rights issues, lot coverage and green space.

Chair Bender asked if anyone wished to speak for or against this item.

Dennis Sobiewski indicated that his biggest concern was the loss of his property value due to the change of land use which would make his business a legal non-conforming use. He believed that if the businesses were to become legal non-conforming uses, there would be no financial incentive to improve the property and the neighborhood would reflect the stagnation. Mr. Sobiewski provided a scenario to emphasize his point. He advised that there would be a loss of employment from his area over a period of time due to the rezoning.

Kim Johnson was opposed due to loss of property rights. She described her business and the potential problems that would impact her as a result of the rezoning.

Ariel Edelsberg indicated that he owned warehouses located on the east side of Davie Road and had been annexed into the Town as M-4 zoning under an annexation agreement. He understood that the M-4 zoning no longer existed; however, he was not clear on what the RAC zoning designation would be compared to terms of uses for his property. Mr. Edelsberg advised that his warehouses were rental properties supporting 90 tenants and he was concerned about their loss of uses when trying to renew their occupational licenses if the property was no longer classified M-3 which he understood was the latest rezoning for his property.

Vice-Chair Stevens interjected that he believed there was a form of miscommunication. Ms. Nolan agreed that staff needed to “sit down and talk about it with more specificity” with Mr. Edelsberg and the property owners in his district.

Michael Manes stated that he was an attorney representing several business owners located in the west side research district and he listed who they were. He agreed that his clients’ greatest concern was the loss of property rights. Mr. Manes advised that as a result of meetings with staff, many of their

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concerns had been discussed and his clients had agreed that they could “live with” the RAC going forward subject to those concerns being further negotiated and worked out. He listed the specific issues which were as follows: 1) that for a five-year period of time, whether their uses be M-2 or M-3, that those uses remain in effect and be revisited at the end of that five-year period to see how well the development was going with respect to the RAC and to continue if appropriate; 2) a window period of time to be determined whereby should a business be totally destroyed, they could rebuild and maintain their use. “After the expiration of that window, whatever it may be, that they would not lose any uses they had if the business were further destroyed, but less than 50%” [currently at less than 20%]; 3) that the rebuilding would be consistent with the land development regulations in effect at the time of the rebuilding; 4) that the clients would have the right to sell their businesses to other parties and continue the same use or continue a use which was equal to or less intensive than the use within the zoning category which they were at whether it was M-2 or M-3; and 5) that if their uses discontinue for no more than one year, they would continue to have their use and all the rights that go within that zoning category.

Mr. Manes indicated that a final concept to be negotiated was one that – as new development would surround these businesses, they would not be declared a nuisance and should be allowed to continue in perpetuity should they so desire. He indicated that his clients could only support the RAC if the aforementioned items were to be negotiated satisfactorily and everyone could agree on it. If the Board was inclined to send this to Council with its approval, Mr. Manes urged that it be done only subject to his clients agreement on the specific points he mentioned.

As there were no other speakers, Chair Bender closed the public hearing.

Mr. Busey contended that the property/business owners along Orange Drive should not necessarily have to be brought into the plan unless they were comfortable with the same terms that Mr. Manes proposed for the property/business owners in the northwest research section. Mr. Katims responded that in the Orange Drive area, almost all the uses were M-1 with a few being M-2 and that the vast majority being legal uses, that would not change. The legal non-conforming uses would remain and the only issue would be in the case of destruction, they would have to reconstruct according to the new Code. Vice-Chair Stevens commented that that was no different from anywhere in the Town and he used the replacement of his roof as an example of rebuilding in compliance with the current Code.

Mr. Busey believed that the property owners on Orange Drive were functioning well with ample open space and that it should be a voluntary decision to join the RAC. Mr. Katims clarified that the rezoning would actually offer property/business owners more choices because they could maintain their current uses as well as have the opportunity to build higher and different types of uses. He believed it was important to include all the areas in the RAC, to allow them to continue what they were doing, and to provide valid zoning where there was none.

Mr. Katims emphasized that this was the direction that Council had endorsed, that the RAC was broken up into six zoning districts which allowed for different things, and all the districts were more flexible than what they had now.

Mr. Busey thought the Town was imposing a vision which should be voluntary. He contended that perhaps in the Orange Drive area, there were 30-year residents who may prefer that their section remain bifurcated and not have “thru” roads. Both Mr. Busey and Mr. Katims agreed that more dialogue would be helpful and welcomed the opportunity; however, they disagreed on the points that there was no benefit in the rezoning and that the Town was “imposing” the vision. Mr. Katims explained the reasons why the Town, the Florida Department of Transportation, the universities and business/property owners had spent thousands of dollars doing this study to formulate a master plan with regulations that would ultimately support long term goals for the community.

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Chair Bender stated that originally, he supported the concept of the RAC; however, there were too many open ended questions for his approval. He believed that cars were an ingrained part of the American society, that in his lifetime he could not see that changing. Chair Bender referred to the light-rail system and noted that whenever anything had been proposed, the voters had “shot it down County wide.” He considered that this process could be done a district at a time rather than “one blanket over 2,200 acres” with all the open questions remaining.

Mr. Busey stated that he could support this conditionally. Some of his concerns such as open space and affordable housing had been addressed and he was comfortable with that; however, the issue with property rights was a “deal killer” if the legal non-conforming users could not get comfortable with it or at least have the option to decide whether or not they want to move into the new zoning. Mr. Busey indicated that he could support a motion to approve this item if the motion had something specific in place to protect property owners in those industrial areas.

Vice-Chair Stevens believed that there was no real denial of property rights in this proposal and that there was a great misconception that needed to be explained. He thought that the Board was under an obligation to zone those properties that did not have a valid Town zoning and that by putting them in the RAC was the most efficient way to do it.

Mr. Pignato agreed that this would not be a loss of property rights. He believed that this proposal was a start in making improvements to the infrastructure, increase businesses, and provide for affordable housing in the process. Mr. Pignato agreed that it had to be tweaked, but it was time to get moving.

Ms. Turin agreed that this was an ambitious project, that you had to start somewhere, and as it progressed, it would have to be fine-tuned.

In order, Mr. Pignato, Mr. Busey, and Chair Bender made disclosures.

Mr. Pignato made a motion, seconded by Vice-Chair Stevens, to approve.

Mr. Busey asked that the motion be amended to add a stipulation that would protect all legal non-conforming users with the option to move into the rezoning at their time and place.

Chair Bender asked Mr. Pignato if he was agreeable to that amendment and Mr. Pignato responded negatively.

In a roll call vote, the vote was as follows: Chair Bender – no; Vice-Chair Stevens – yes; Mr. Busey – no; Mr. Pignato – yes; Ms. Turin – yes. **(Motion carried 3-2)**

Since this item was heard later in the meeting, the Board recessed afterwards at 11:25 p.m. The Board reconvened at 11:30 p.m.

**4.3 ZB 10-2-07, The Amadi Companies, LLC/Trotters Chase, LLC, 5820 Griffin Road (from Griffin Corridor and A-1 to Griffin Corridor [EGZ] and A-1)**

Earlier in the meeting, there being no objections, Chair Bender took this item out of order.

Dennis Mele, Frank Amedia and Glenn Hanks, representing the petitioner, were present. Chair Bender asked if Mr. Mele had any objections if the Board heard this item together with items 4.4 and 4.5. Mr. Mele responded that he had no objections.

Each of the Board members disclosed that they had contact with the applicant prior to this meeting. Mr. Abramson summarized the planning report for the rezoning.

Chair Bender asked what was the total amount of the residential units. Mr. Abramson advised that there was a total of 204 planned residential units part of which 168 were apartments in mixed use buildings

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Mr. Busey asked what the Site Plan Committee had recommended upon its review of the project the previous day. Using renderings and an aerial, Mr. Mele gave a brief site plan presentation and noted all the recommendations which had been made by the Committee. He pointed out where the affordable housing units were to be located. Mr. Mele advised that the affordable housing would be offered in three categories for moderate, low, and very low incomes. He also spoke of a plan to discount the rent in the way of an annual rebate for businesses in the development that employed residents of Trotters Chase.

Mr. Mele spoke of the development's impact on the schools in the district. He explained what the Broward County School Board required in order to lessen the impact by the projected additional students on the over-capacitated Silver Ridge Elementary School. Mr. Mele advised of a reserved capacity agreement with Davie Utilities which assured that the development would be provided with utility service.

At Chair Bender's inquiry, Mr. Mele clarified that 30 units were designated for affordable housing. Chair Bender asked about the landscaping plans. Mr. Mele advised that the Site Plan Committee had been complimentary on the abundance of native and draught-resistant plants that had been incorporated into the landscaping plans.

Chair Bender contended that there should be 34 affordable housing units rather than 30. Mr. Mele pointed out that the remaining 138 units were all within the work-force range of affordability for rentals. He reiterated that of the 30 affordable housing units, 6 were at the very low range, 6 were at the low range, and 18 were in the moderate range.

Vice-Chair Stevens asked about flex units and Mr. Mele clarified the issue.

Mr. Busey had questions regarding ingress and egress access points which Mr. Mele answered. Mr. Amedia answered Mr. Busey's questions regarding the business rental discount rebates for employing Trotters Chase residents.

For the Board's edification, Ms. Taylor-Prakelt provided a brief presentation on affordable housing and made clear why she believed this project was so important to the Town.

Chair Bender asked if anyone wished to speak for or against this item.

Brandon Brogal spoke of his commute into Miami to work and believed that a project designed to support mixed uses was a step in the right direction. He supported the project.

William McClain supported the project as he and his wife worked in the Town and appreciated that instead of commuting, he could spend that time with his family.

Cynthia McClain spoke in support of the item, specifically the opportunity to rent units as she moved here from out of state and renting gave them the opportunity to decide where to settle.

Gary Ross spoke in support of the project and was anxious to see it started.

David Harris spoke in opposition as his concern regarded the amount of traffic at the SW 61st Avenue access. He asked that should the project move forward, that all construction traffic be limited to the Griffin Road access.

Mitchell Chester spoke in support of the creative opportunities the project offered and was excited to see the construction start.

Rick Fernandez spoke in support of the item due to the jobs and affordable homes it would provide.

Jennifer Lester spoke in support of the item as it was to be a "walk able" community.

Sean Hemingway spoke in favor of the project and believed it would enhance and encourage redevelopment in that vicinity.

Richard Linthcom was opposed to the rezoning because of the scale of the project.

Pam Pelkey-Rose was opposed to the project. She read a letter of opposition which had been written by Paul Humann who believed the project would seriously diminish his property value due to traffic congestion, noise and light pollution.

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James Mariotti spoke in support of the item. As a laborer who worked in the vicinity, he would appreciate the opportunity to live, as well as work, in Davie.

Serge Keeshan spoke in support of the project.

Laura Brudzinski stated that she did not oppose the project, she opposed the scale of it. She commented that the traffic on and condition of SW 58th Avenue was already deplorable.

Frank Serra spoke in support of the project especially since 30 units would be for affordable housing and because the Town's mobile home residents were in drastic need of it.

Rose Anderson was opposed to the rezoning because of the density and impacts on schools and utilities.

Olga Burn spoke in opposition of the rezoning part of the issue, not the entire project.

Steve Fuller spoke in opposition based on the conditions of the two avenues.

Terry Fuller spoke in opposition based on the density.

Robert Kellner spoke in support of the item since it met several of the Town's objectives.

Elena Delgado spoke in support of the project.

Cathy Carmitros spoke in support of the project and of the opportunity for small businesses.

Maurice Geravtz was in support of the project and spoke highly of the developer's product.

Eric Swalley was opposed based on the density and that the Griffin Road Corridor was to be extended into a community where it did not fit.

Colin Orrett spoke in support of the project and looked forward to investing in a business at that location.

William Koucher was opposed because of the access points at SW 61st and 58th Avenues and the traffic issues getting onto Griffin Road.

Matt Murphy was opposed to the rezoning for rental units which had inadequate amenities provided for children.

Ron Fore spoke of the empty storefronts further along Griffin Road and believed that this product was not selling. It appeared to him that Nova Estates was being saturated with development.

Chris Murphy was opposed because the rezoning did not fit into the neighborhood. She was concerned about having children in her yard, noise from the commercial uses, and truck traffic. Ms. Murphy submitted six letters from residents who were opposed to the rezoning and could not attend the meeting.

James Marsh spoke in support of the project as he was aware of the quality of work and the good reputation of the developer.

Jim Natals spoke in support of the item.

As there were no other speakers, Chair Bender closed the public hearing.

Mr. Mele was given the opportunity to respond and clarify several misconceptions expressed by several of the speakers. He addressed the permitted uses that were allowed in that specific district; the fact that 36 villas and a lake would be abutting the residential neighbors; that the section to be rezoned was for the Griffin Road Corridor portion of the project; that the burden of traffic would be entering and exiting from the Griffin Road access; that the developer would totally be rebuilding that portion of SW 58th Avenue adjacent to the development as well as widening that section of the road to 24-feet; and that the affordable housing would not be concentrated but rather spread out among buildings A, B and C.

Chair Bender asked that Mr. Mele consider increasing the affordable units from 30 to 34. Mr. Mele explained that although they were offering four less units than the Board was requesting, since a portion was dedicated to low and very low incomes, it was a better arrangement than dedicating 34 units to all moderate incomes; however, he agreed to ask his client to consider the request. Later in the meeting, Mr. Amedia agreed to increase the number of affordable units to 34 of which the additional four would be at or below the 120% of median.

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Chair Bender asked how the additional students were to be mitigated with the School Board. Mr. Mele explained the process.

Mr. Busey asked if it was a reasonable expectation for the project to generate 600 jobs. Mr. Mele responded that the expected projections were 650 jobs. He advised that the taxes on the property would increase to an excess of \$2,000,000 as opposed to \$200,000 in 2007 and \$2,000 in 2006 having had an agricultural exemption.

In assessing the pros and cons, Mr. Busey noted that a repetitive concern regarded the access on SW 61st Avenue and he asked how many lanes it had at the Griffin Road traffic light. Mr. Hanks stated that there were two northbound lanes at the light, one to turn left and one to go north or east.

Ms. Turin asked about building "green," the developer's intention to follow the LEED standards and the impact on utilities. Mr. Mele advised that although the utility impact was expected to amount to 3,800 gallons per day more than the current land use allowed, they would hope to decrease that consumption by implementing those standards. He reiterated that there was an agreement with Davie Utilities which guaranteed that there was availability.

Mr. Mele continued to answer the Board's questions regarding shared parking for mixed-use facilities, the commercial and business aspect of the project, market analysis, and store sizes.

A lengthy discussion ensued in which Board members expressed their viewpoints in support or opposition to the various issues.

Vice-Chair Stevens made a motion, seconded by Ms. Turin, to approve item 4.3, ZB 10-2-07. In a roll call vote, the vote was as follows: Chair Bender – yes; Vice-Chair Stevens – yes; Mr. Busey – yes; Mr. Pignato – yes; Ms. Turin – yes. **(Motion carried 5-0)**

*Flex*

4.4 FX 12-1-05, Frank Amedia, the Amadi Companies LLC/Trotters Chase, LLC, 5820 Griffin Road (Griffin Corridor and A-1)

Earlier in the evening, Vice-Chair Stevens made a motion, seconded by Ms. Turin, to approve item 4.4, FX 12-1-05. In a roll call vote, the vote was as follows: Chair Bender – yes; Vice-Chair Stevens – yes; Mr. Busey – yes; Mr. Pignato – yes; Ms. Turin – yes. **(Motion carried 5-0)**

*Special Use*

4.5 SE 10-1-07, Trotters Chase, LLC, 5820 Griffin Road (Griffin Corridor [EGZ])

Earlier in the evening, Vice-Chair Stevens made a motion, seconded by Ms. Turin, to approve item 4.5, SE 10-1-07. In a roll call vote, the vote was as follows: Chair Bender – yes; Vice-Chair Stevens – yes; Mr. Busey – yes; Mr. Pignato – yes; Ms. Turin – yes. **(Motion carried 5-0)**

*Variance*

4.6 V 7-2-07, Gulla, 13201 SW 16 Court (A-1)

Earlier in the meeting, Mr. Gulla, the petitioner was present. Ms. Bazinet summarized the planning report.

Chair Bender asked if there were any letters of support from the neighbors or the homeowners' association. Mr. Gulla provided copies of letters of support from the surrounding neighbors and clarified his request.

Ms. Turin asked why he was extending the pool into the easement area instead of building it straight back. Mr. Gulla advised that his four children played within that yard space whereas the easement area was "dead space."

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Vice-Chair Stevens commented that the Board ran into this problem constantly when it involved a corner house and he asked what the setback would be if it was a regular backyard. Ms. Bazinet advised that the setback would be 30-feet.

Chair Bender asked if anyone wished to speak for or against this item. As no one spoke, the public hearing was closed.

Ms. Turin expressed that she did not see where this issue fell within the criteria for a variance because it seemed self-created. She asked why the pool could not be repaired and kept the same size. Mr. Gulla responded that his four children were young and he did not want to recreate a nine-foot deep pool. Ms. Turin reiterated that the application did not fall within the Code provision to allow for a variance.

Vice-Chair Stevens made a motion, seconded by Mr. Busey, to approve. In a roll call vote, the vote was as follows: Chair Bender – yes; Vice-Chair Stevens – yes; Mr. Busey – yes; Mr. Pignato – yes; Ms. Turin – no. **(Motion carried 4-1)**

Earlier in the meeting, the Board recessed at 9:55 p.m. The Board reconvened at 10:10 p.m.

**5. OLD BUSINESS**

Chair Bender mentioned that the Councilmembers were getting better about speaking into their microphones during the Council meetings. He asked that the votes which this Board took on motions be made public at the Council meetings. Ms. Nolan advised that the Planning and Zoning Board's votes were indicated on the agenda and again in the planning report.

**6. NEW BUSINESS**

Mr. Busey asked if the Davie Travel Center had complied with the landscape recommendations that had been made over a year ago. Ms. Nolan explained that a Ficus hedge had been planted instead and that it was growing.

**7. COMMENTS AND/OR SUGGESTIONS**

No comments and/or suggestions were made.

**8. ADJOURNMENT**

There being no further business and no objections, the meeting was adjourned at 11:36 p.m.

Date Approved: \_\_\_\_\_

\_\_\_\_\_  
Chair/Board Member